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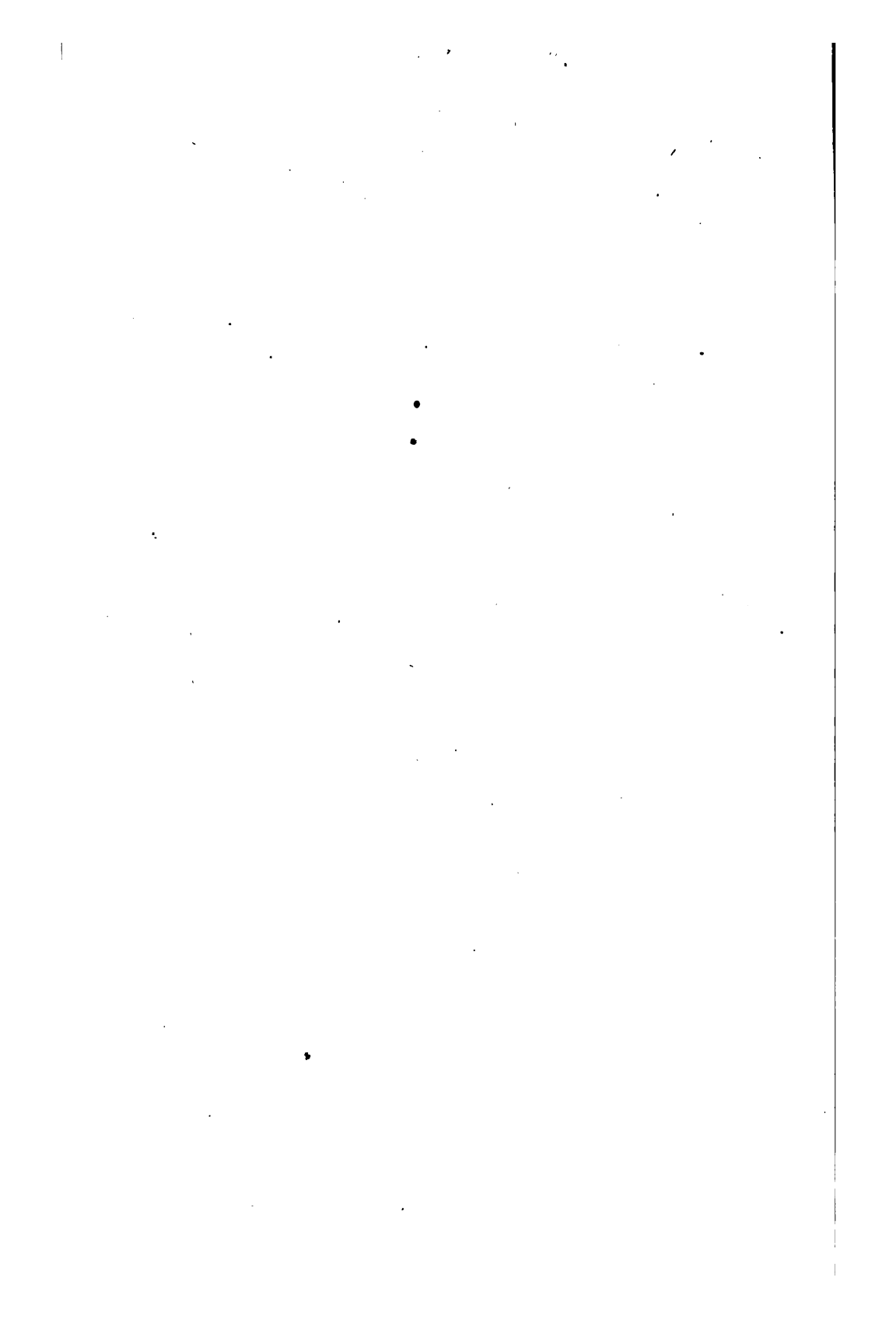
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A  
REFUTATION  
OF SO MUCH OF  
THE CALUMNIES  
AGAINST  
THE LORD CHANCELLOR

CONTAINED IN THE LAST NUMBER OF  
*THE QUARTERLY REVIEW*

IN AN ARTICLE UPON THE PAMPHLET

ENTITLED

“*The Reform Ministry and the Reformed Parliament,*”

AS RELATES TO THE APPOINTMENT OF

MR. JAMES BROUGHAM

TO THE OFFICES OF

CLERK OF PATENTS AND REGISTRAR OF AFFIDAVITS.

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LONDON:  
NOVEMBER, MDCCCXXXIII.

368.

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L O N D O N :  
PRINTED BY C. ROWORTH AND SONS,  
BELL-YARD, TEMPLE-BAR.

IN the last number of the Quarterly Review is an article upon a pamphlet entitled the "*Reform Ministry and the Reformed Parliament*," with the pages of which I profess to have no further acquaintance than may be derived from the above periodical. The Reviewer suggests that the pamphlet has been written for the purpose of giving greater publicity to the legal reforms contemplated by Lord Brougham—a motive, I suspect, not likely to diminish its merits in the eyes of the people, who know too well the value of those measures, that shall secure to them the cheap and speedy administration of justice, not to take a lively interest in such a subject. But whatever may have been the object of the author of the *brochure*, it is quite clear that the main object of the Reviewer is to deceive those, into whose hands his pages may come, respecting the



nature of the recent changes in our judicial system, and take away all confidence in him with whom they have originated.

Of the article in question  $1\frac{1}{2}$  pages are given to the Abolition of West India Slavery—3 to Finance—1 to the Bank Charter; the East Indies and the China Trade occupy 2, Corporations  $1\frac{1}{2}$ , Poor Law Amendment not quite  $1\frac{1}{2}$ , Foreign Policy 4, and Portugal  $1\frac{1}{2}$ ; whilst not less than 15 pages are devoted to “ Brougham and Law Reform,” words which, it is probable, the Chancellor will not be displeased that this critic seems to treat as synonymous.

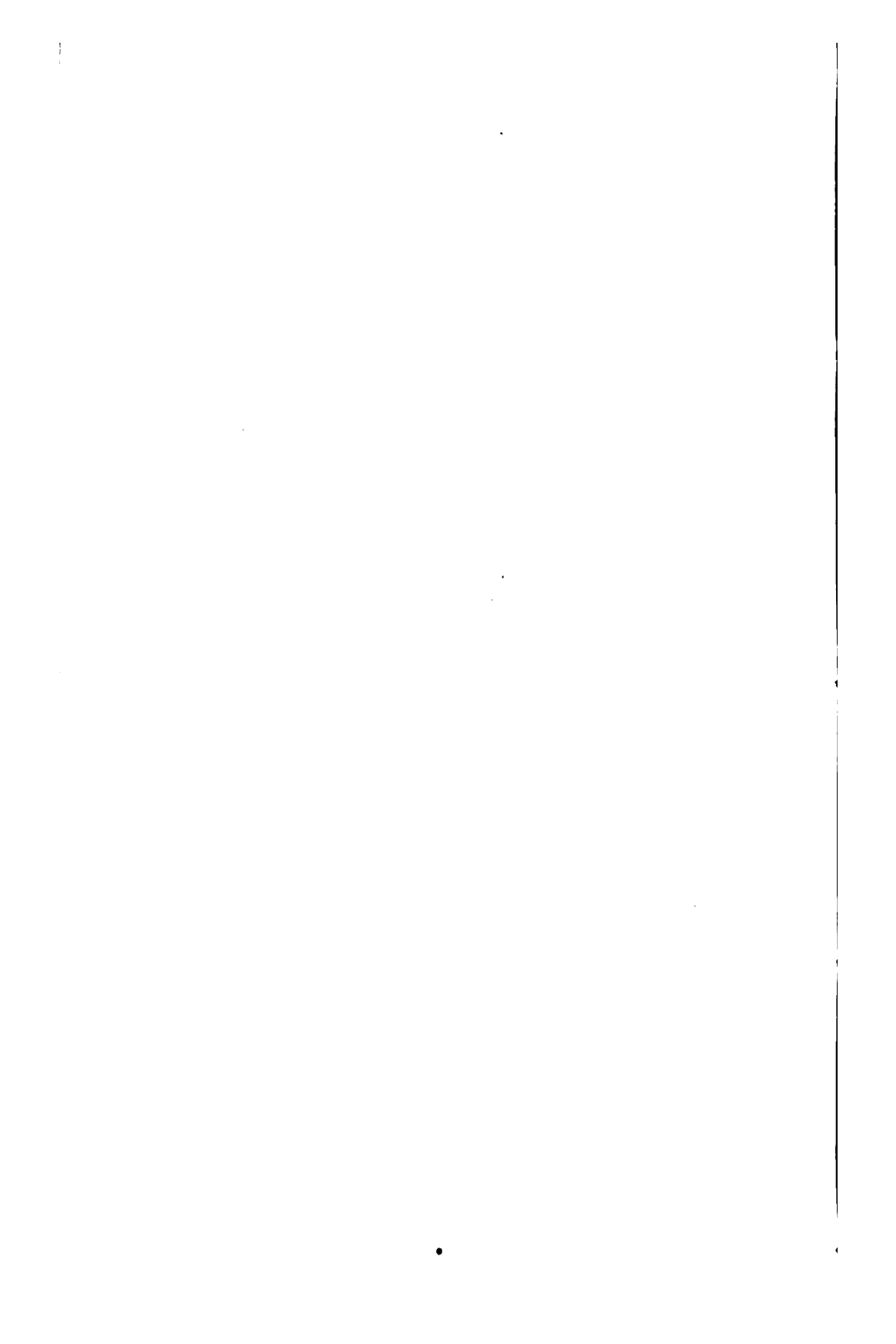
The charges of the Reviewer, that are sufficiently definite to admit discussion, may be distributed under the following heads.—The Nomination of Mr. James Brougham to the Offices of Clerk of the Patents and Registrar of Affidavits.—The Chancery Regulation Act of the last session, and its Compensation Clauses.—The transfer of the Appointment of the Masters from the Chancellor to the Crown.—The New Bankruptcy Court.—The Secretary of Bankrupts.—The Mode in

which Lord Brougham has exercised his Patronage.—The Appointment of Country Commissioners of Bankrupts.—The Arrears of Business in the Lord Chancellor's Court.—The carelessness with which the Acts prepared by Government are drawn.—The Act for the better Administration of Justice in the Privy Council.—Mr. Abercrombie's retiring Allowance;—and lastly, the intention of Lord Brougham to divest himself of his judicial functions, retaining his present salary.

All these charges, should my professional engagements during the ensuing week permit, it is my intention to consider in the order in which they occur above. Many of them a few words will suffice to refute, but others are compounded of such numerous misrepresentations as to require a more patient investigation, and amongst these is that which stands first in the list; and I have, for that reason, selected it as the subject of a separate inquiry.

C. P. C.

LINCOLN'S INN,  
23d Nov. 1833.



## A REFUTATION,

&c.

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IN the month of June, 1832, Mr. James Brougham was appointed to the offices of Clerk of the Patents and Registrar of Affidavits, which had then unexpectedly become vacant by the death of the Honourable —— Scott. The offices were abolished by the statute 2 & 3 Will. IV. c. 111, when the Chancellor's brother claimed no compensation—an act of such unparalleled moderation that the Reviewer exerts his utmost ingenuity and sophistry to detract from its merit; and finding that these alone would not effect his dishonest purpose, he scruples not to assert facts, with the falsehood of which no one was better acquainted than himself.

We are told that the places in question “ might have been filled by any common clerk;” that “ Lord Brougham, without saying one word upon the subject in the House of Lords, or elsewhere, appoints his brother James to them;” that “ a recommendation of a Committee of the House of Commons, in favour of the Chancellor's present salary of £14,000 a year, was grounded upon the giving up of these and other sinecure offices;” that “ his brother had no vested right, and was not entitled to any compensation;” and that if there was any title to compensation, that “ such

compensation was afforded by the act which assigned the additional £1000 to the Chancellor upon resignation or removal." The Reviewer concludes from these premises, that it is a gross deception to laud the disinterestedness of Lord Brougham and his brother. "What a pity," he adds, "it is the facts do not bear out this eulogium."!!!

Let us examine those facts.

The assertion, that the offices might have been filled by any common clerk, was rebutted at the time by Lord Eldon. In speaking of one of the offices, he said—"I confess it did fill my mind with surprize and astonishment when I found it asserted that the office of Registrar of Affidavits was a sinecure office, when to my knowledge, and I have no doubt to the knowledge of every member of the profession, there does attach to it very considerable business, and very heavy responsibilities."\*

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\* It is worthy of remark too, that when the Bill abolishing the Chancery Offices was brought in, Lord Wynford opposed it upon the ground that they were not sinecures, and that the destruction of them would be inexpedient and injurious, at least until such time as due provision should be made for the future discharge of the duties attached thereto.

The Act 3 & 4 Will. IV. c. 84, for providing for the Performance of the Duties of certain Abolished Offices connected with the Court of Chancery, after reciting the extinction of the office of Clerk of Patents, in consequence of the Act 2 & 3 Will. IV. c. 111, expressly authorises the

The assertion, that Lord Brougham appointed his brother without saying one word upon the subject, is answered by Lord Grey. "Immediately after the late unfortunate event had placed at the disposal of my noble and learned friend the situation in question, he communicated the occurrence to me, and also communicated his intention of proceeding with his bill (for the abolition of the sinecure offices) in an unaltered form."\*

The bold allegation, which the Reviewer prints in italics, that there was a recommendation of a Committee of the House of Commons in favour of the salary of £14,000, grounded upon the giving

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Crown to appoint a fit person to fill the vacant place. The Chancery Regulation Act, 3 & 4 Will. IV. c. 94, after reciting the extinction of the office of Registrar of Affidavits, in consequence of the same statute of 2 & 3 Will. IV., enacts that there shall be an officer, to be called the Clerk of Affidavits, who shall perform the duties heretofore performed by the Registrar of Affidavits, and that there shall be an Assistant Clerk to the said Clerk of Affidavits. The Acts give these three officers salaries in lieu of fees.

\* The Chancellor himself stated in the House of Lords, "That I have never intended for a moment to avail myself of the opportunity which has recently occurred of filling up two of the offices in question in the usual way, is perfectly well known to the noble Earl at the head of the government, and to the noble Duke opposite (the Duke of Richmond), who were both present on Sunday morning, the day after the death of Mr. Scott, when I made a declaration to that effect. The fact is known to the noble Secretary of State for the Home Department, with whom, two days afterwards, I had a communication on the subject."

up of these offices, comes next. Now every body recollects, that early in the year 1831, a Select Committee of the House of Commons was appointed to inquire what Reduction could be made in the Salaries and Emoluments of Offices held during the pleasure of the Crown by Members of either House of Parliament. Mr. Alexander Baring was the Chairman of the Committee, and Lord Brougham was examined before it on the 13th of February in that year; and because, in conformity with the ancient ceremonial used on such occasions, " he proceeded from the House of Lords with the Mace, which he left at the door of the committee-room, and was examined sitting on a chair, and covered,"\* the Reviewer is fain to term it a " mountebank examination." But it is not with his language or observations that I am now dealing. Lord Brougham, upon that occasion, reiterated the opinion so frequently expressed by him orally and in writing, that the payment of the Keeper of the Great Seal by fees, instead of a fixed salary, was contrary to every principle either of justice or expediency, as it gave him a direct interest in checking all improvements in the Court of Chancery, and the Committee report† that they " entirely concur in that part of his Lordship's evidence which recommends a fixed salary in lieu of fees and perquisites of all kinds, a system and mode of payment derogatory from the high dignity of the office, and exposed

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\* Min. of Evid. p. 15.

† Page 10.

to the suspicion of occasioning impediments to the exercise of its functions;" and after remarking that " it is necessarily filled by a lawyer of extensive and lucrative practice, which he is called upon to abandon, and is exposed to lose his situation with every change of government, &c." they conclude by themselves recommending that such fixed salary should not be *less* than £14,000 a year, being £500 per annum less than the emoluments of the person holding the Great Seal, upon an average of the three preceding years,\* after the deduction of the £2,500 contributed towards the Vice-Chancellor's salary.† But, will it be

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\* Lord Brougham states in his evidence, " very possibly I take the emoluments of the Great Seal at too low an average when I put them at £14,500. Upon a period of eight or ten years they will probably amount to £17,000 or £18,000, &c."—p. 19. Indeed, it appears that upon the average of three years, 1808, 1809 and 1810, the net receipt of the Chancellor was £19,233:2s. In the year 1810-1811, his emoluments amounted to £22,737:13s. And yet the Reviewer represents the salary of £14,000, as "*a large salary!*"—intending, of course, that the reader should understand it to be large in comparison with the income enjoyed by Lord Brougham's predecessors.

† The Reviewer says, " He (Lord Brougham) bargained therefore for £10,000 a year clear, to be added to £4000 a year as Speaker of the House of Lords, and to be relieved from the £2,500 a year which his predecessor had paid to the Vice-Chancellor." The reader might well suppose, from this craftily worded passage, that the £2500 had been omitted in the calculation made of the average annual pro-



credited, that the Report contains not one iota respecting “ *the giving up of these offices!*” It is true that Lord Brougham, in a rapid sketch of his intended reforms, avowed that, if he could obtain the concurrence of Parliament, it was his strongest disposition to divest the Great Seal of all that patronage, without any exception, which had theretofore gone to the maintenance of the Chancellor’s family; but the Report of the Committee is wholly silent on the subject, and the recommendation of the salary of £14,000 is not grounded upon the giving up of any offices, but proceeds upon the above stated principles alone. Had the Committee confined themselves simply to the recommendation of the salary of £14,000, there might have been some colour for alleging that the prospective abolition of these offices influenced them in fixing the amount; but they expressly state the reasons of such recommendation, from which it is incontestable that the extinction of these places, so long used as provisions for the relations of our Chancellors and Lord Keepers, was not taken into the account.\*

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fits of the Great Seal during the three years that preceded Lord Brougham’s elevation to the bench. The average sum of £14,500 was, however, the clear net receipt, after deducting the proportion of the Vice-Chancellor’s salary payable by the Lord Chancellor under the Act, 53 George III. c. 24.

\* It is not immaterial here to state, that as long ago as the year 1798, the Select Committee on Finance, of which

Further proof of this, were it wanting, is furnished by the course adopted when the period came for giving the Chancellor a fixed salary and making a provision for his retirement from office. *Separate* bills were introduced, and *separate* acts were passed for the purpose, and in their entire progress through Parliament they were treated and discussed as distinct and independent measures. In the debate upon the Salary Bill, Lord Althorp expressly stated, " I will only add, that in the present bill I have omitted any mention of the retiring pension of the Lord Chancellor, because I thought that ought not to be decided upon until the abolition of all the sinecure offices in the Court of Chancery should be effected;" and in

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the late Lord Colchester was Chairman, reported that the offices of the Clerk of the Hanaper, Prothonotary, Clerk of the Subpœna Office, Chaff Wax, Sealer, Clerk of the Presentations, Clerk of Inrolments in Bankruptcy, Patent Clerk of the Bankrupt Office, Clerk of the Custodies of Idiots and Lunatics, Clerk of the Dispensations, &c. were executed by deputy, and " might be reduced not only without detriment to the public service, but with very great and important advantages to the public in point of economy, as well as of general example." And yet not only have succeeding Chancellors been uninterruptedly permitted to bestow these places on their children and dependants, but the Act of 2 & 3 Will. IV. preserves inviolate even the remote and contingent rights to which grantees of them in remainder lay claim. *There is one exception in the statute and one only; the places yielding to the brother of its author an income of £2,800 per annum!*

the subsequent debate upon the Pension Bill, Mr. Hume, a member, and of course an active one, of the Committee of 1831, although he opposed the increase of the retiring pension, yet never hinted that that Committee had recommended “ *the LARGE salary upon the ground of the giving up of the offices.*”

But then, says the anonymous critic, “ there could not have been any vested interest, nor, consequently, any title to compensation.” Now the Act abolishing certain Sinecure Offices connected with the Court of Chancery, and making provision for the Lord Chancellor on his retirement from office, received the royal assent on the 15th of August, 1832,\* and for the first time realized Lord Brougham’s favourite scheme of closing for ever all those tortuous roads to riches and aggrandizement which had been formed by the ambition or avarice of his predecessors. But whilst this statute extinguishes, after the lapse of a few months, the places of Registrar of Affidavits and Clerk of the Patents, it leaves untouched the rights acquired in possession or reversion to a swarm of other sinecure offices, and it is, I presume, meant to be insinuated that there was some peculiarity in the nomination of Mr. James Brougham, that rendered this distinction in favour of the appointees of Lords Eldon and

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\* The offices of Clerk of the Patents and Registrar of Affidavits became vacant on the — day of June preceding.

Lyndhurst a mere measure of necessity. In a word, that there was some government pledge that the offices should be extinguished. But where is such pledge to be found? No such pledge can be discovered in any of the numerous debates respecting Chancery Reform that took place prior to the month of June, 1832. Nor indeed is it possible that the same could have been given, as it is evident from what then passed in Parliament, that the sinecure Chancery offices had not, previously to that time, on any occasion formed the topic of cabinet deliberation.\*

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\* It is proper here to notice an assertion of the Reviewer, that " Lord Brougham of his own authority appointed to the places in question, although one, if not both, had been always in the gift of the Crown." The place of Clerk of the Patents was returned by Lord Eldon in 1825 amongst the offices at the disposal of the Lord Chancellor; and although the Registrar of Affidavits is *nominally* appointed by the King; yet the place has always been considered as part of the patronage belonging to the Great Seal, and dealt with accordingly. A mass of Parliamentary Returns shows this, and the following is too remarkable to have been unknown to the Reviewer. "*Register of Affidavits in Chancery*—By Patent dated 11th March, 1766, Edward Woodcock, Esquire, (since deceased,) was appointed Register of the Affidavits in the Court of Chancery, to hold to him and his assigns, or by his or their deputy or deputies, during the natural lives of Elborough Woodcock, (since deceased,) Henry Valentine Wilmot, and Thomas Woodcock, (also since deceased,) and the life of the survivor of them, in

No formal pledge was, however, requisite to induce Lord Brougham to practise what he had himself recommended; and he no sooner had acquired the patronage of the lucrative offices in question, than he instantly determined to suppress them; but, it being admitted on all hands that they must be filled up until fit arrangements could be made for the performance of such duties as belonged to them,—to use his own language,—“ he took care to place in them a person over whom he had such influence, in whom he had such implicit confidence, that he should hold them at his own disposal and have them given up at a word, without a whisper about vested rights.”\*

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trust for Robert, first Earl of Northington. His son, Lord Henley, succeeded his father in title and this office; he dying intestate without issue, his sisters, as co-heiresses, became entitled to the said office, who appointed John Thomas Batt, Esquire, trustee for holding the same.”

\* On bringing in the Abolition Bill Lord Brougham said, “ The offices which I have ever had at my disposal will be entirely and utterly abolished by the Bill, just as much as if I had never given any one of them. I had as indisputable and undoubted a right to keep these offices in existence, as I had to receive any part of my salary which I possess, or the fees which I receive. I had just as much right to appoint to these offices as my predecessors had; but I have always entertained the opinion that the right to appoint to offices of this description was an improper mode of remunerating the person who holds the high office of Lord Chancellor.”

But, contends our Critic, if there was any title to compensation, "such compensation was afforded by the Act which assigned the additional £1000 to the Chancellor upon resignation or removal." The remark is just, if applied to the places of Keeper of Hanaper, Patentee of the Subpœna Office, Clerk of the Crown, Clerk of the Custodies, Prothonotary, Chaff-Wax, Sealer, Clerk of the Presentations, Clerk of Inrolments, Clerk of Dispensations, and Patentee for the execution of the Bankrupt Laws, all of them granted by former Chancellors, and which are suffered to subsist during the interests of the holders; but it is most erroneous and false if applied to the suppressed places of Registrar of Affidavits and Clerk of the Patents. What, can it be forgotten that these places had actually vested in possession? and can even party faction represent £1000 added to a retiring pension as an equivalent for £2800, already many weeks in enjoyment, with all the contingencies of a change of Ministry before any such increase could be made, contingencies upon which, if I recollect right, the Tories about that time built no small expectations?

But enough, and more than enough, has been said to convince every impartial inquirer. It would be unjust, however, to the Tories in general were I to conclude without showing, that, whatever may be the sentiments of the Reviewer, they are participated only by the most virulent

or the most bigoted of his political associates. In that very debate, in which certain expressions were used, that some are so vain as to believe "the upper Whigs are ashamed of," Lord Grey concluded a Speech of which a part has been already quoted, by stating, that conduct of the nature above referred to, was utterly inconsistent with the whole tenor of Lord Brougham's life; when the Duke of Wellington added, "I concur in the latter part of what has fallen from the noble Earl. The present has not been the only sacrifice made by the noble and learned Lord on the Woolsack.\*"

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\* The Duke of Wellington's words a few days afterwards, upon the motion for leave to bring in the Chancery Sinecure Office Abolition Bill, were still more explicit:—"I confess, my Lords, that it does appear to me, that the proposition of the noble and learned Lord for bringing in this Bill now, is founded on a discussion which lately occurred in another place, rather than on the noble and learned Lord's conviction of its necessity on public grounds. I lament that such discussions should take place, but in legislating on subjects of this kind we ought to look only to what the public interests require; and a measure ought not to be introduced into Parliament merely because a party discussion has taken place elsewhere, or with a view of repelling any imputation on the personal character of any individual, however eminent that individual may be. The discussion in question also applied to one only, and not to the whole of these offices. According to my understanding of the noble Lord's declaration respecting this measure, it is introduced by him from a high sense of

I believe that the noble Lord made a sacrifice of several thousands a year by the measure which he brought before Parliament nearly two years ago, and for which, as far as I can learn, Parliament, though now sitting two years, has yet given him no compensation.\* The public are

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honour, purposely to relieve himself, unnecessarily as it appears to me, from the supposed imputation of having intended to continue these offices in existence."

\* Six months before this, Lord Ellenborough had drawn the attention of Government to this matter, in a way that did him much credit. "It will no doubt" (he observed) "be in the recollection of your Lordships that in the last session of Parliament your Lordships were pleased to pass a bill, the object of which was to effect an alteration in the law with respect to bankruptcy. Your Lordships were at that time given to understand that when the bill should have passed, due care would be taken of all those interests which might be injuriously affected by it, and that a prompt and speedy provision would be made for the proper support of the individual holding the office of Lord High Chancellor—an office of which it was foreseen and admitted that the emoluments would be most materially depreciated, by the alterations under that bill to be effected in the law of bankruptcy. The bill, as your Lordships are aware, went down from hence to the other House of Parliament; but I believe your Lordships would not have consented to pass a measure, so seriously prejudicing the office of the Lord Chancellor, if you had not been assured that steps would be taken in the other House to secure a liberal remuneration for the first law officer of the state.



essentially interested in paying the Lord Chancellor; and I rose on this occasion purposely to

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In the other House, however, it does appear, my Lords, that compensation was secured to all persons whose interests were injuriously affected by this bill, except to the Lord Chancellor himself. The bill, it should be observed, was passed at the conclusion of a long and arduous session of Parliament, which fact may perhaps account for the omission I have alluded to, inasmuch as the noble and learned Lord on the woolsack was most anxious that the bill should pass, at all events, without further delay.

“ I have now brought this subject forward without, I beg to say, any previous communication with the noble and learned Lord on the woolsack, or with any of his Majesty's Ministers; and I have thought fit so to do, because I conceived it might be more agreeable to that noble and learned Lord that a notice on this subject should come from this side of the House, than that it should emanate from his own political friends. I would here express my ardent wish that no time may be lost in making a fit and proper provision for the office of the Lord High Chancellor—a provision which we were told, when the bill passed, would be made—a provision which is due to the first administrator of justice in this country, in order to enable him to support, with a proper degree of dignity, that state which, as the chief law officer of the state, it is incumbent upon him to maintain.”

The Lord Chancellor replied—“ I am perfectly satisfied that the noble Baron, in bringing this matter under the consideration of your Lordships has been actuated by the best possible intentions towards the humble individual who has now the honour to hold the Great Seal, as well as by

remind the noble Earl opposite (Lord Grey) of this sacrifice made by the noble and learned Lord on the woolsack, and to call upon the noble Earl to take it into his consideration."

With Lord Brougham's own words upon that memorable occasion, I shall dismiss this head of accusation. They perhaps afford the best answer to the above calumnious assertions. Lord Grey having excused the delay in granting the compensation, from the unwillingness of Lord Brougham to communicate with any one on the subject,\* the Chancellor observed—"I shall certainly not communicate with any person upon a

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a just feeling as respects the dignity of that office. It is undoubtedly true, as stated by the noble Baron, that I was most anxious the bill in question should pass during the last session, and that I was particularly desirous therefore that the consideration of the subject to which he has just referred should not be then agitated. I beg leave to say, that I have had no conversation whatever with my colleagues in the Government on this subject, and that whenever the matter may be brought forward, I can be no party to it, or entertain upon such a question any communication with those by whom it may be so brought forward, let the proposition proceed from what quarter it may."

\* Lord Althorp, about the same time, stated in the House of Commons, that on speaking with the Lord Chancellor respecting the proposition to be made to Parliament as to his salary, &c. the latter declined saying anything upon the subject.

subject of this nature ; but I may venture here to say thus much, that I do not think it at all necessary that the Great Seal should have attached to it a very enormous salary. I protest against any such doctrine ; for I feel quite assured that the office would be as well filled, though it were not enormously paid."

Is this the language of one who could condescend "*to talk over the Salaries Committee delightfully*" ?\*

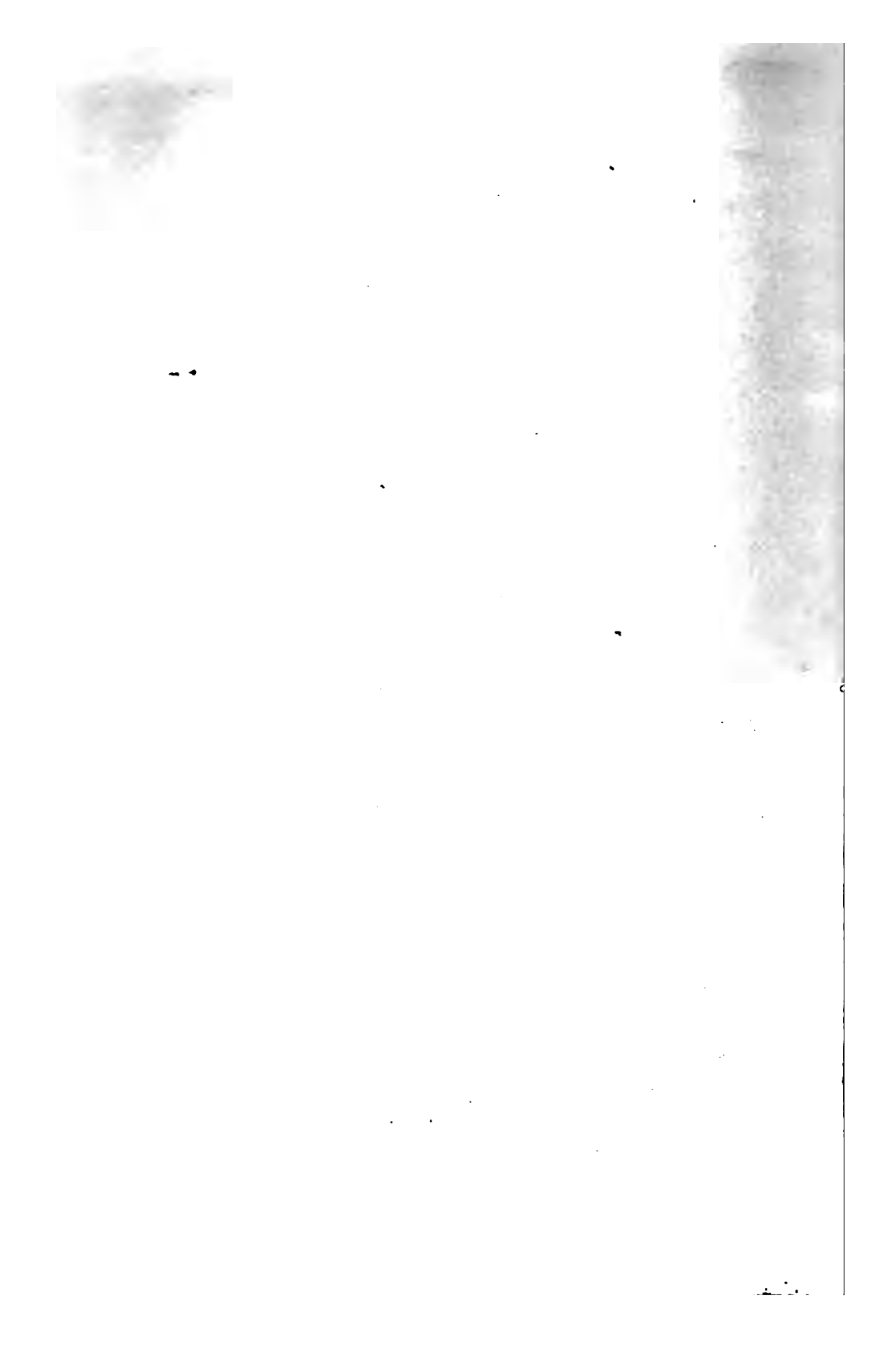
Political prejudice must indeed have singularly obscured his vision who can regard these transactions as "*bargains*,"† artfully concluded by Lord Brougham for the undue augmentation of his present or future emoluments, or can see in them anything but proofs of the purest and rarest disinterestedness.

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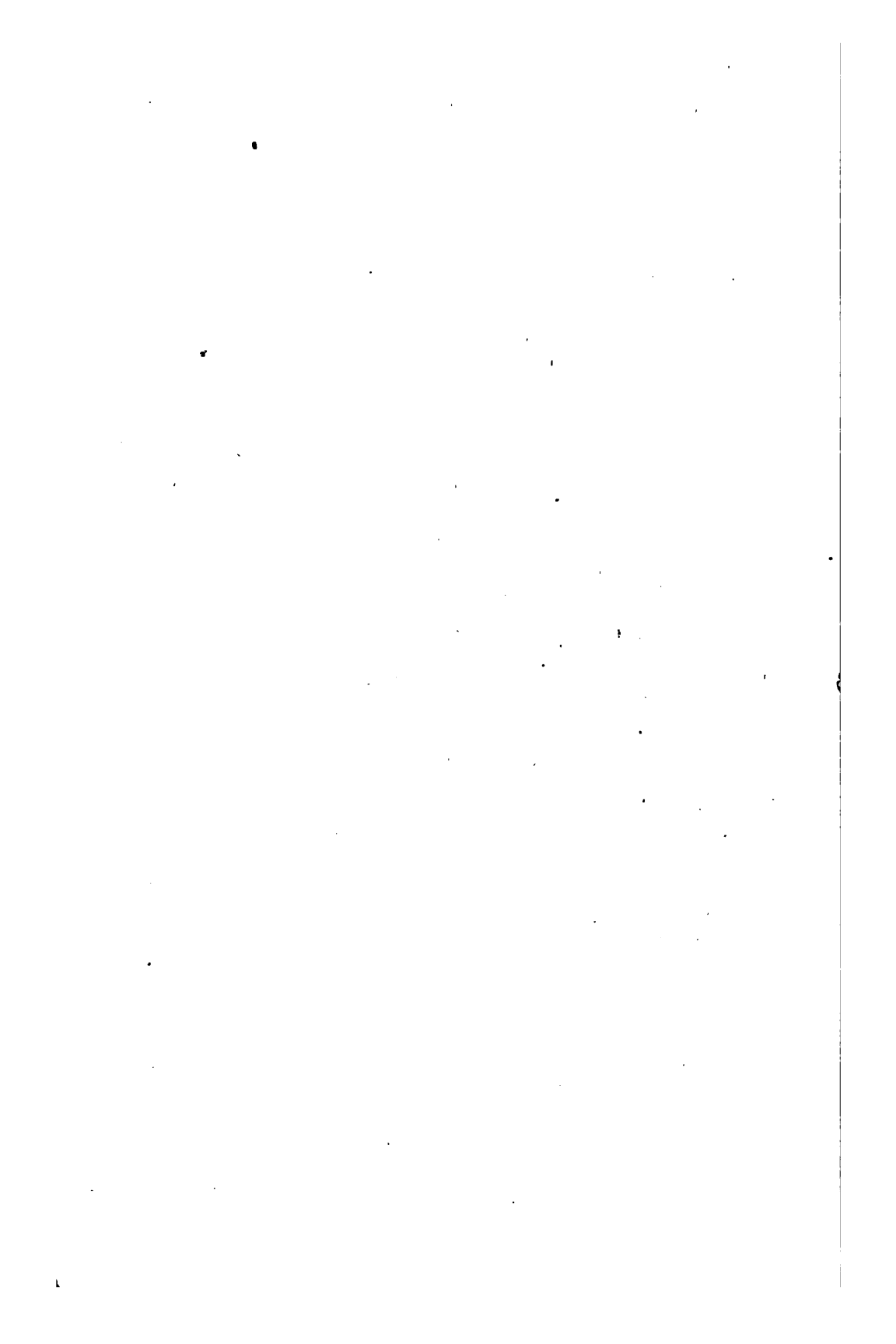
\* Quart. Rev. p. 239.

† Ibid. pages 238, 239.

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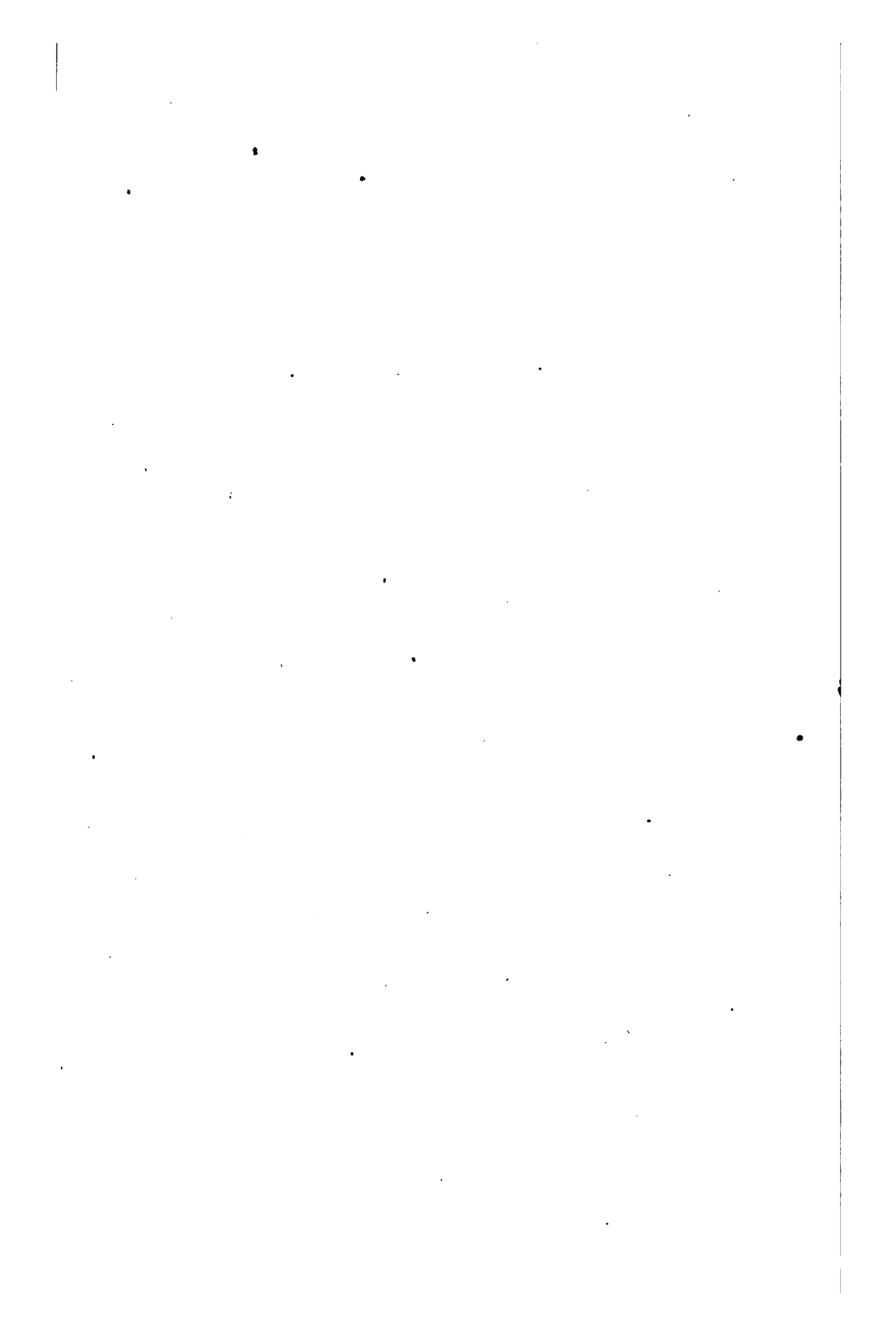


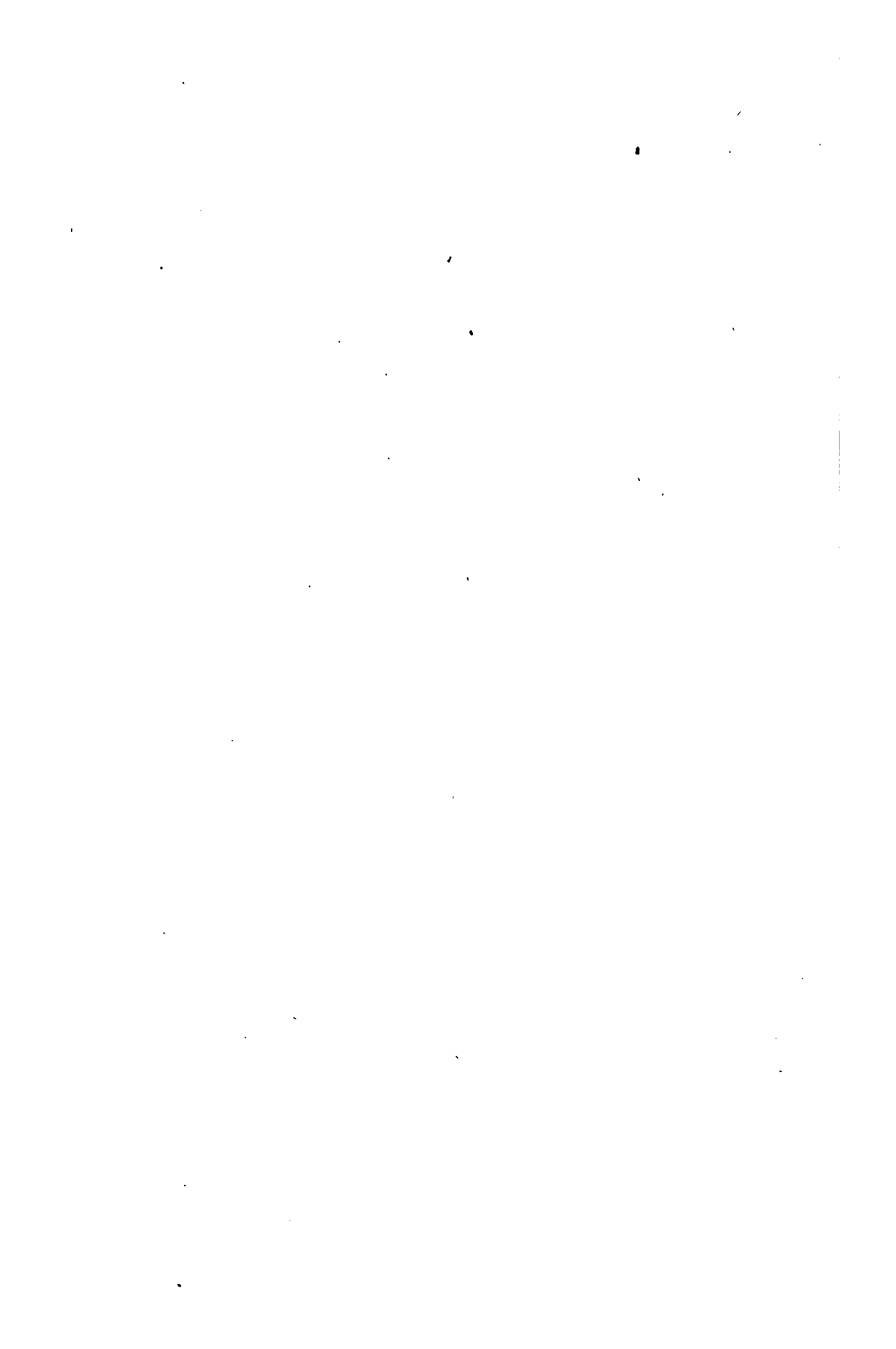


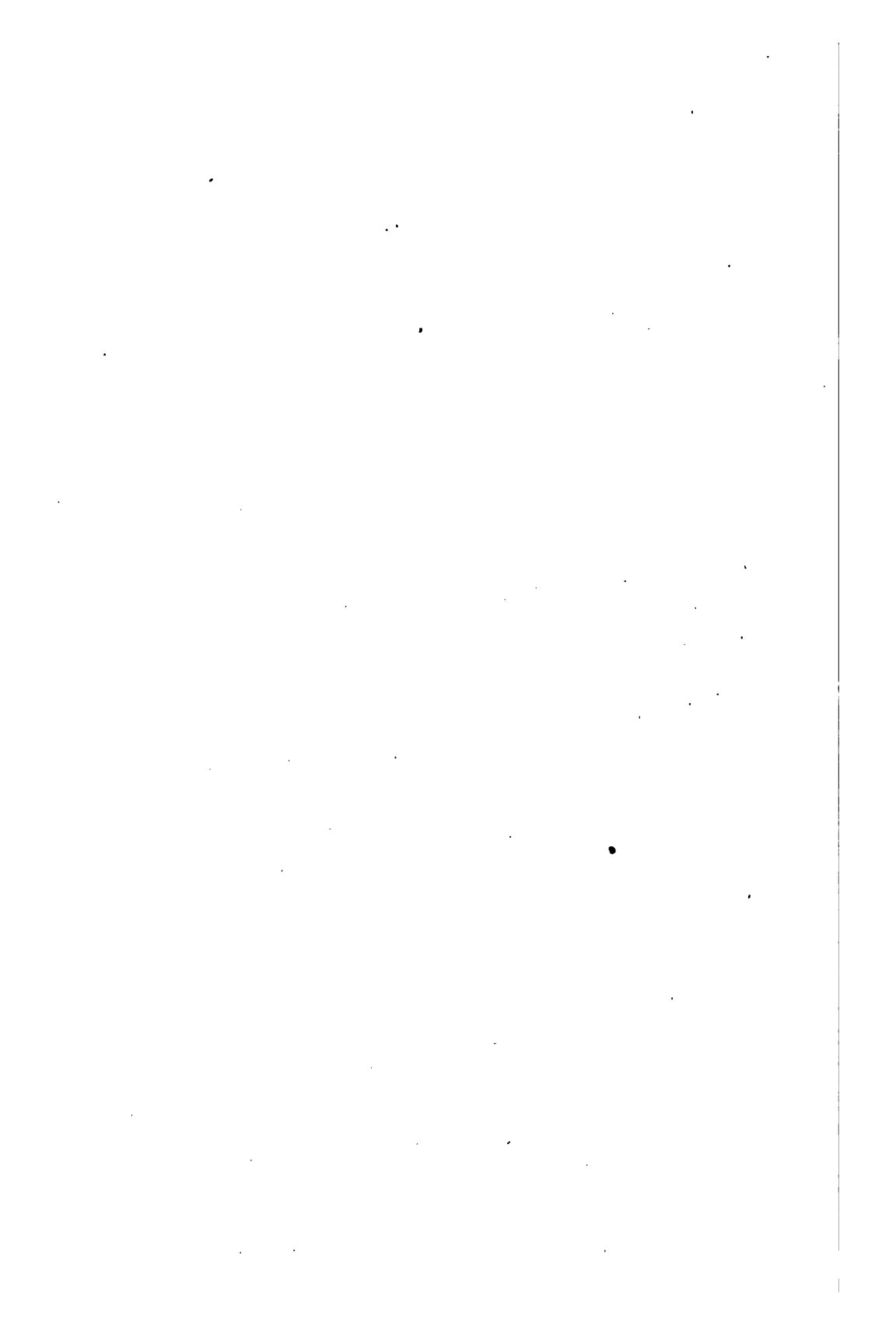














1. *Chlorophyll a* (Chl *a*)

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24. *Chlorophyll x* (Chl *x*)

25. *Chlorophyll y* (Chl *y*)

26. *Chlorophyll z* (Chl *z*)

27. *Chlorophyll aa* (Chl *aa*)

28. *Chlorophyll ab* (Chl *ab*)

29. *Chlorophyll ac* (Chl *ac*)

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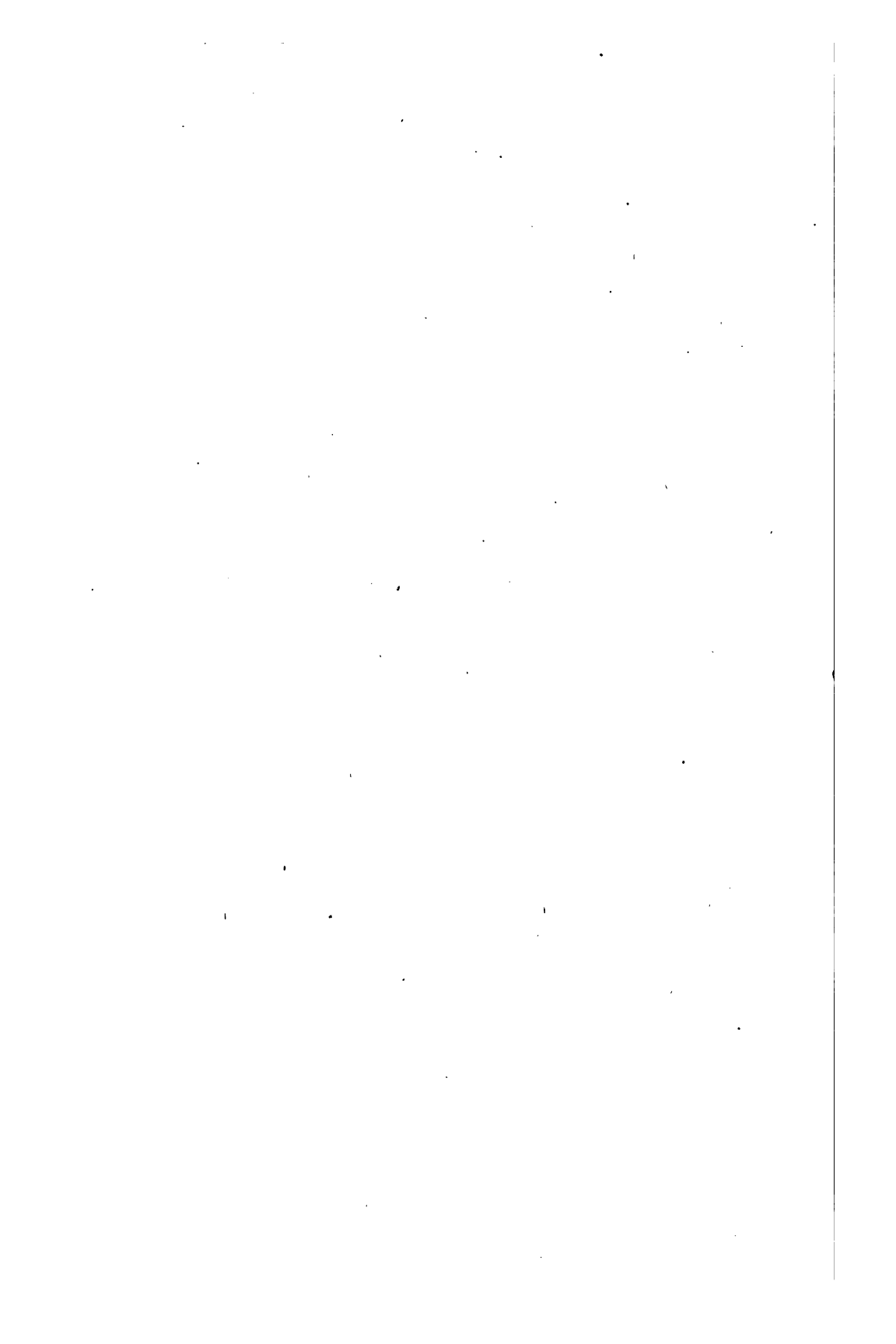
32. *Chlorophyll af* (Chl *af*)

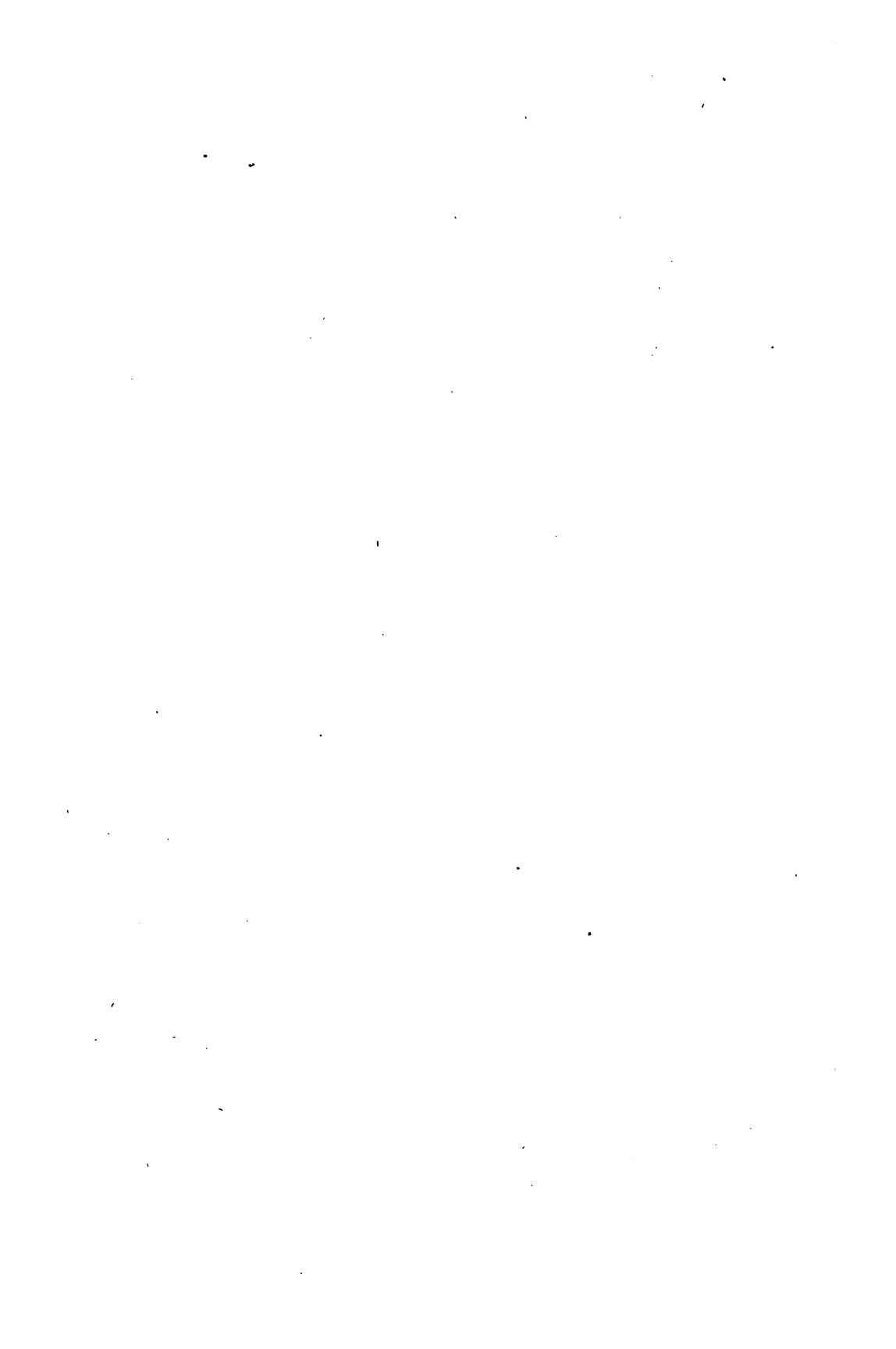
33. *Chlorophyll ag* (Chl *ag*)

34. *Chlorophyll ah* (Chl *ah*)

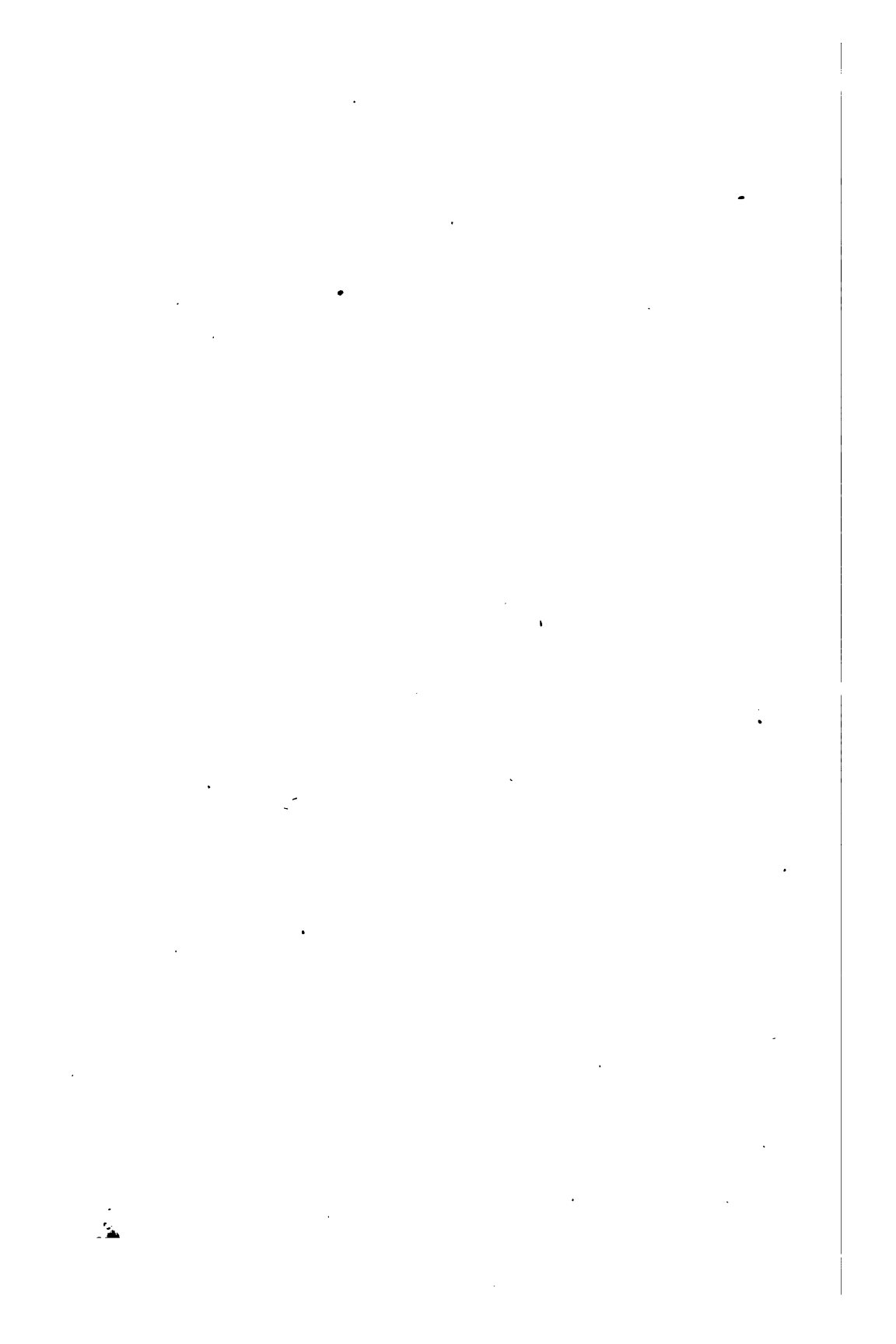
35. *Chlorophyll ai* (Chl *ai*)



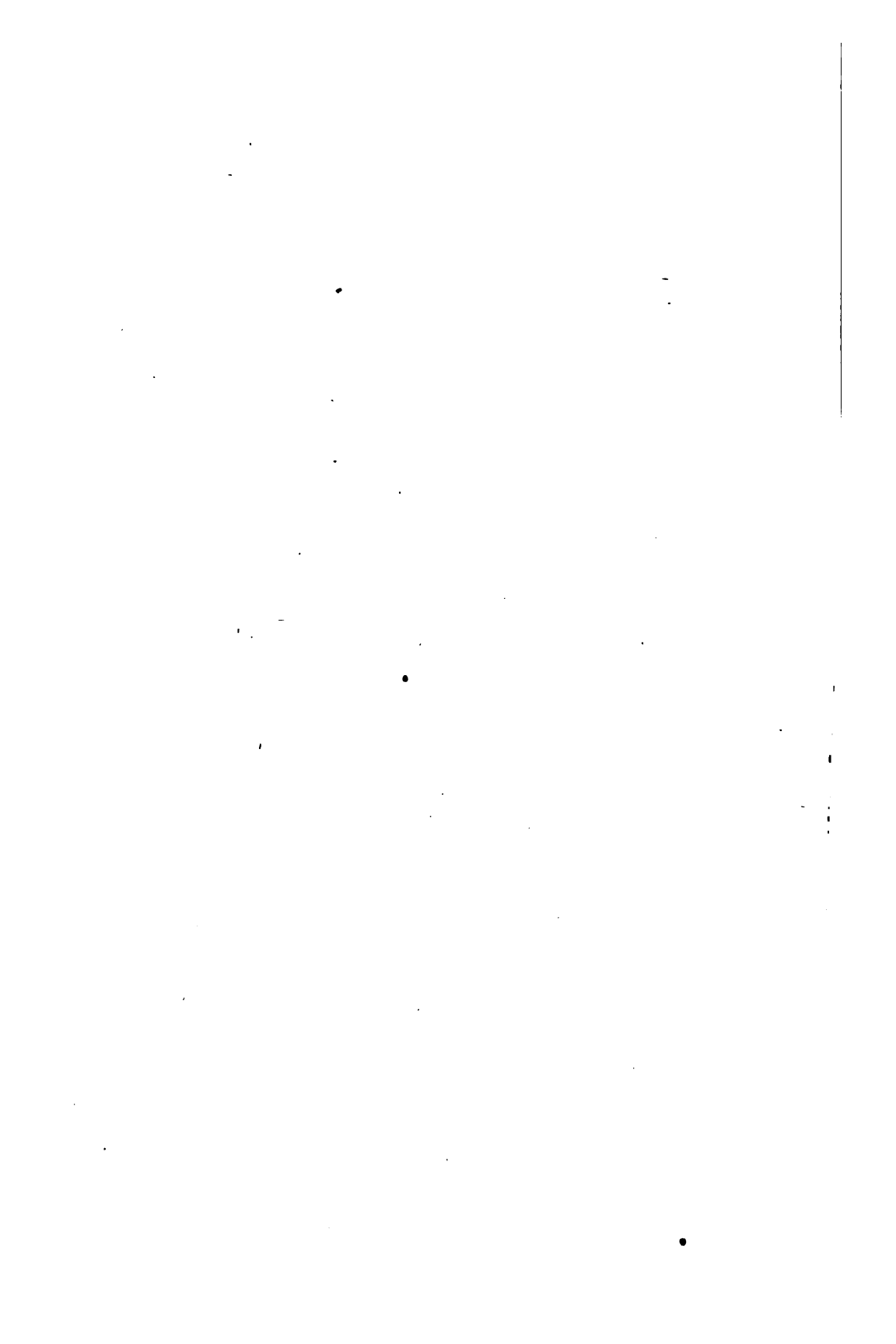




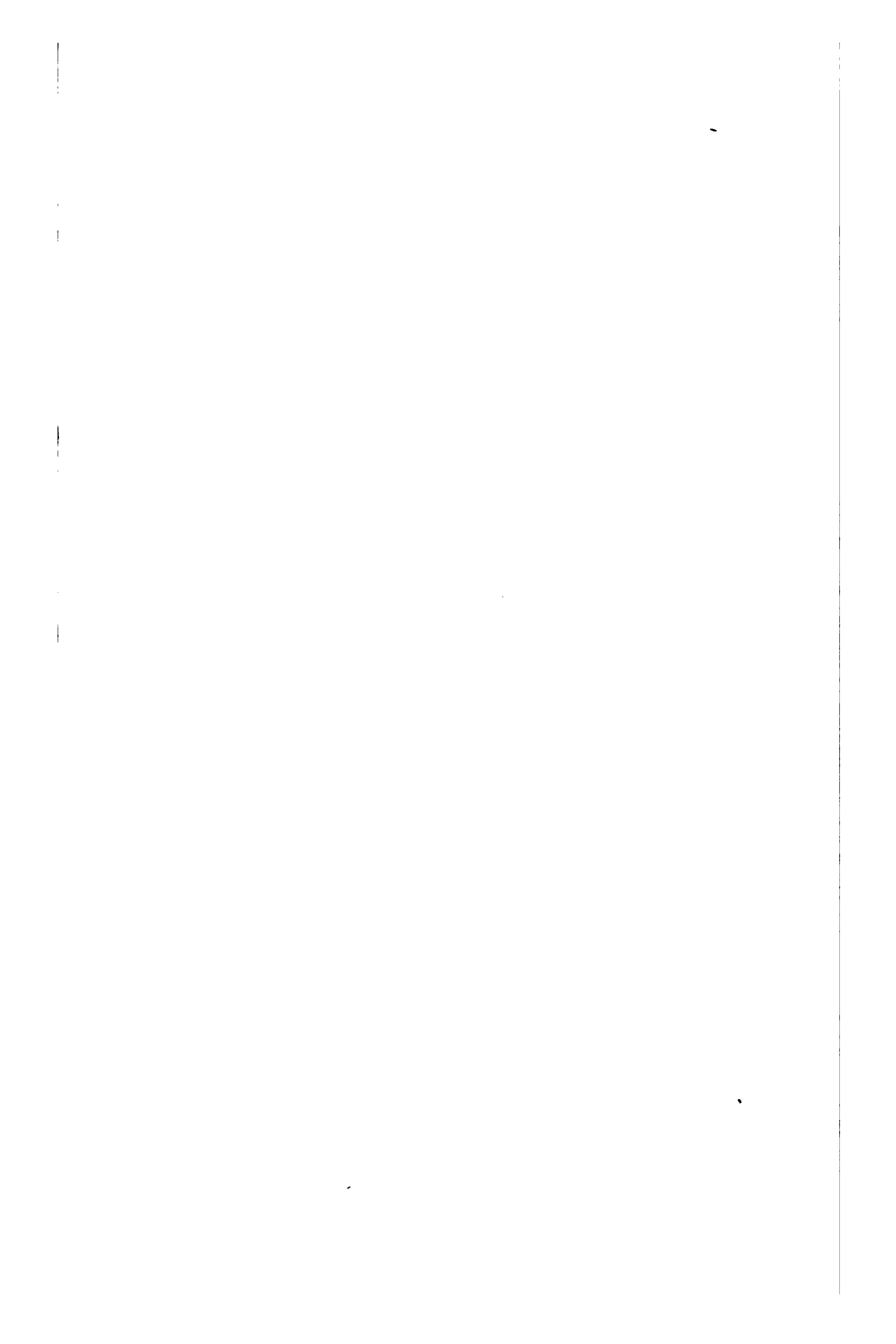


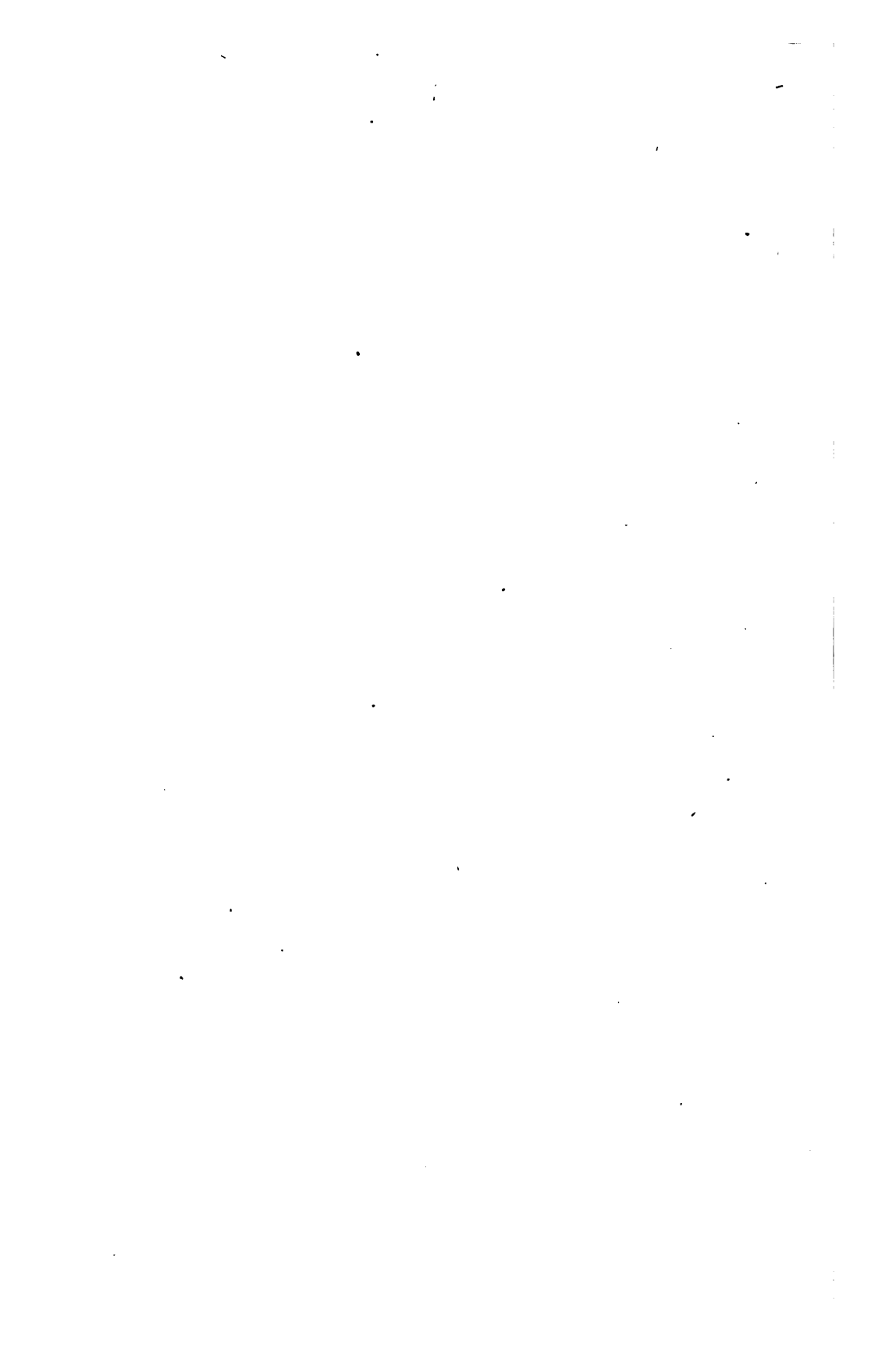




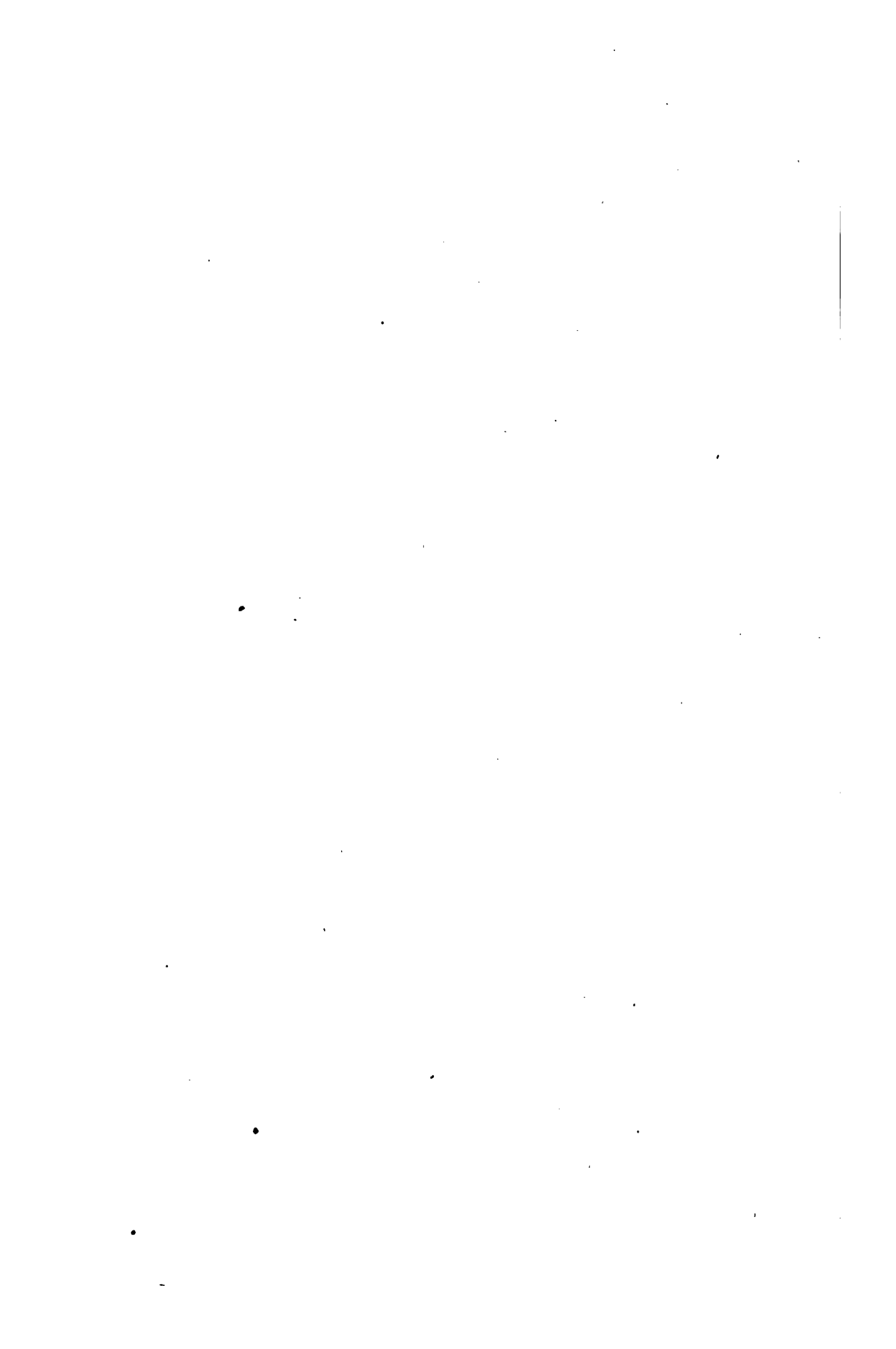




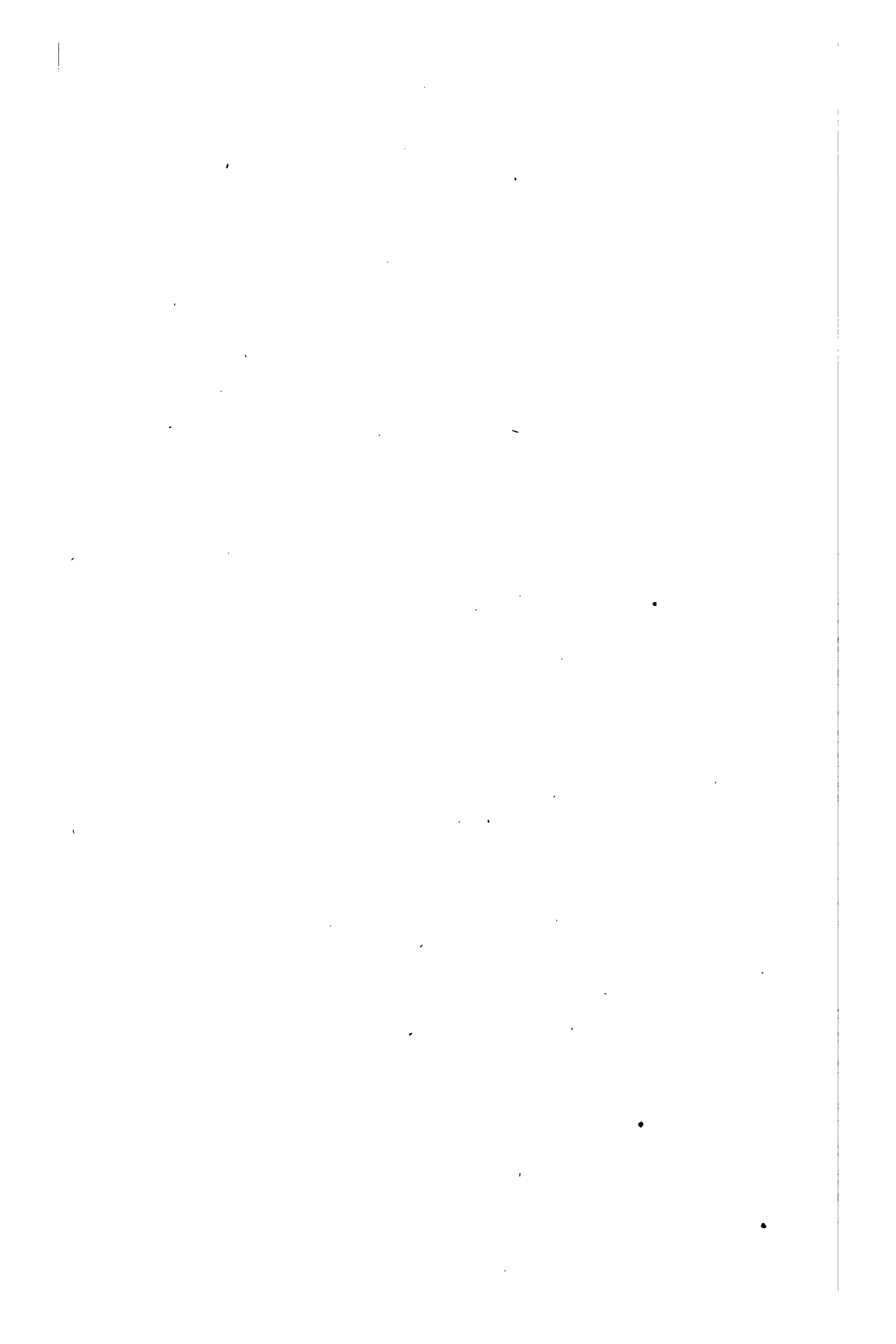


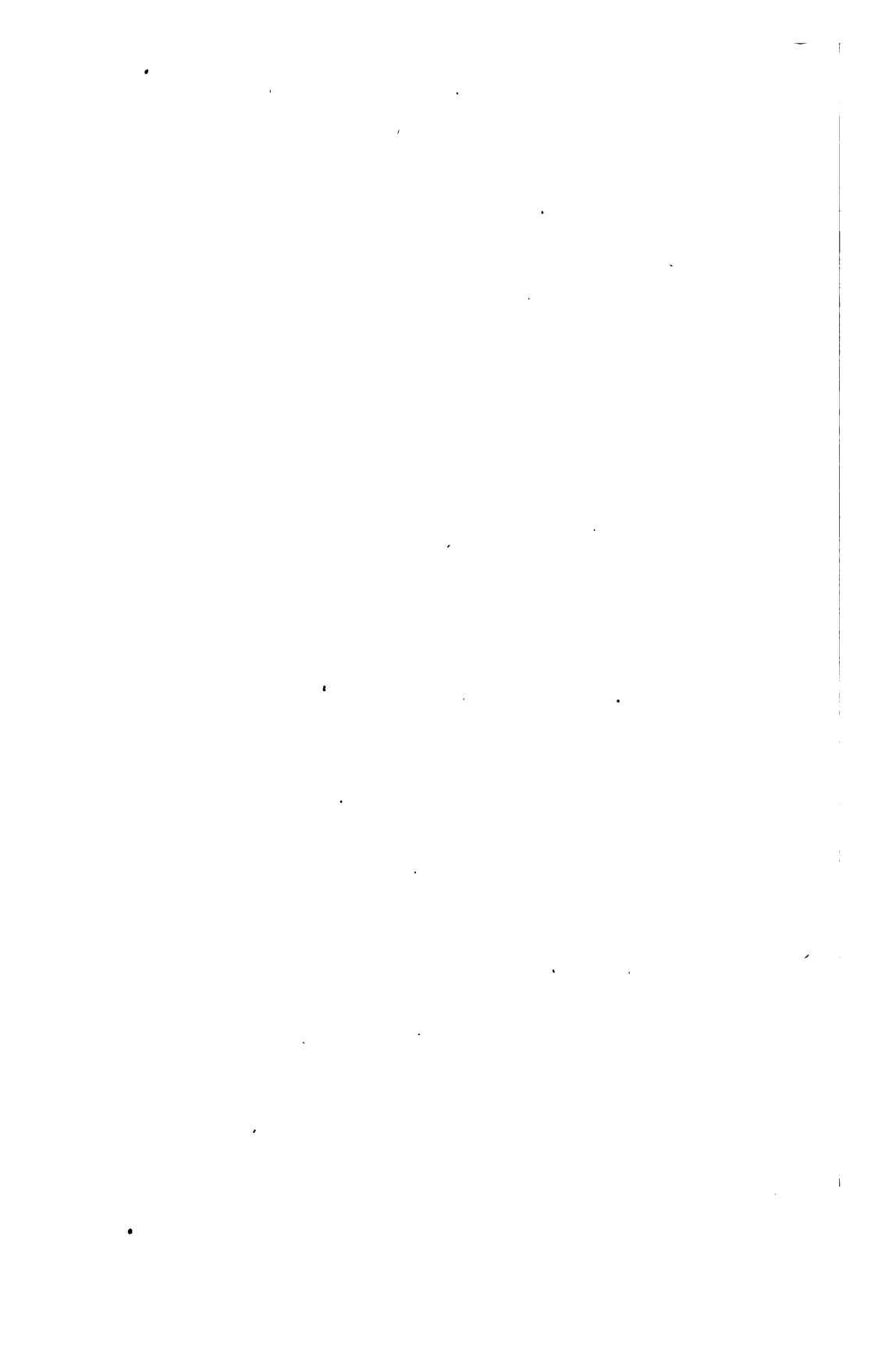


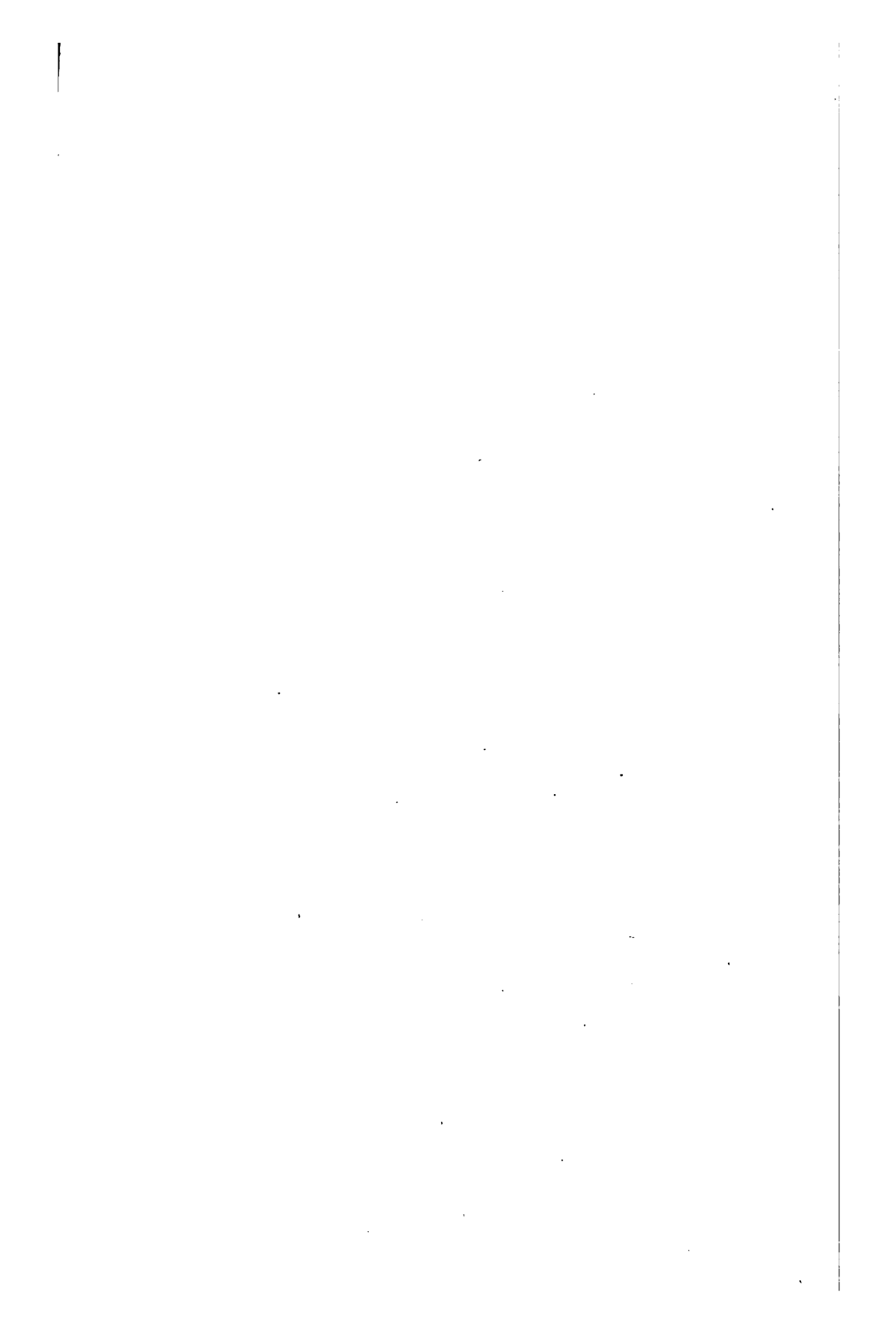


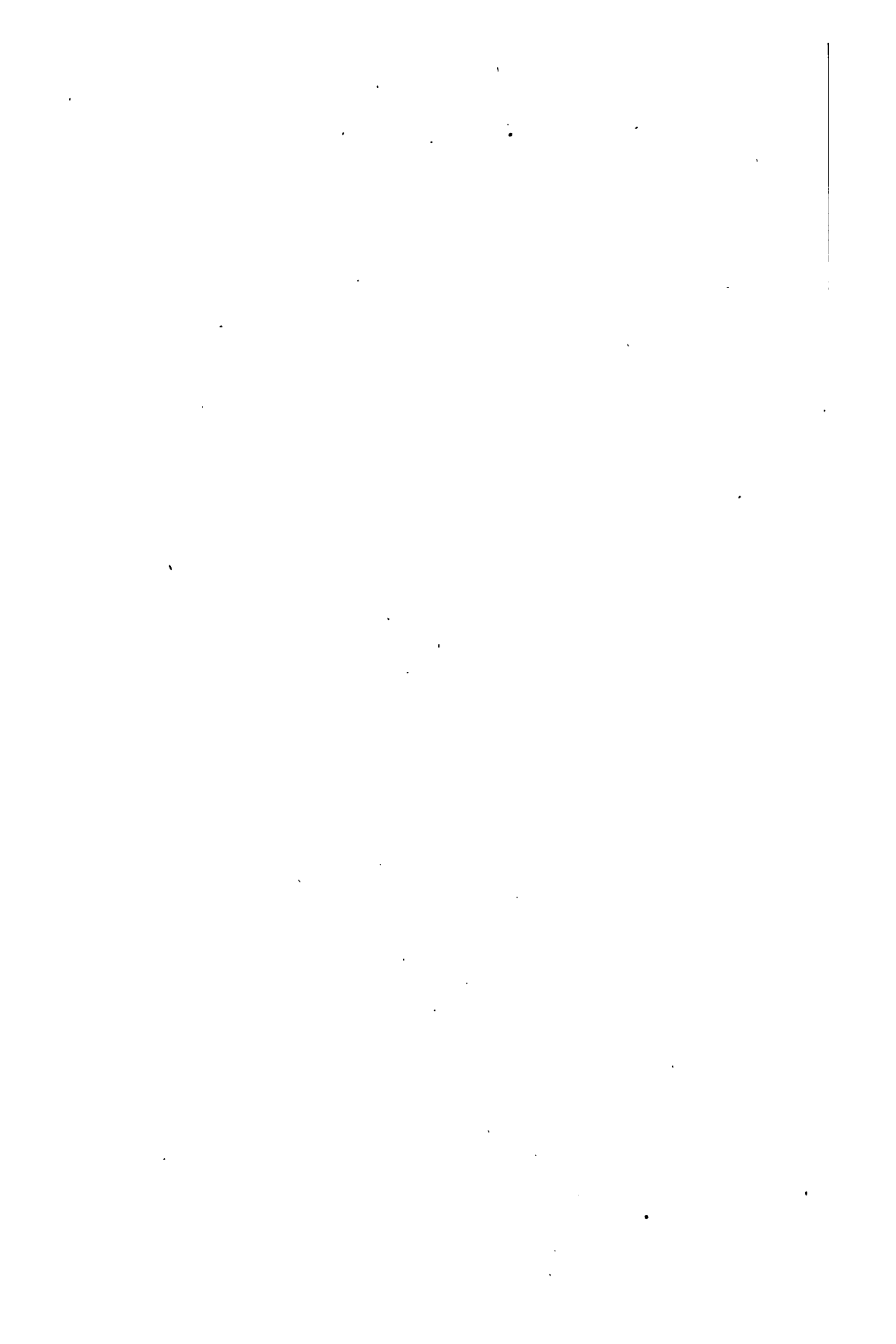










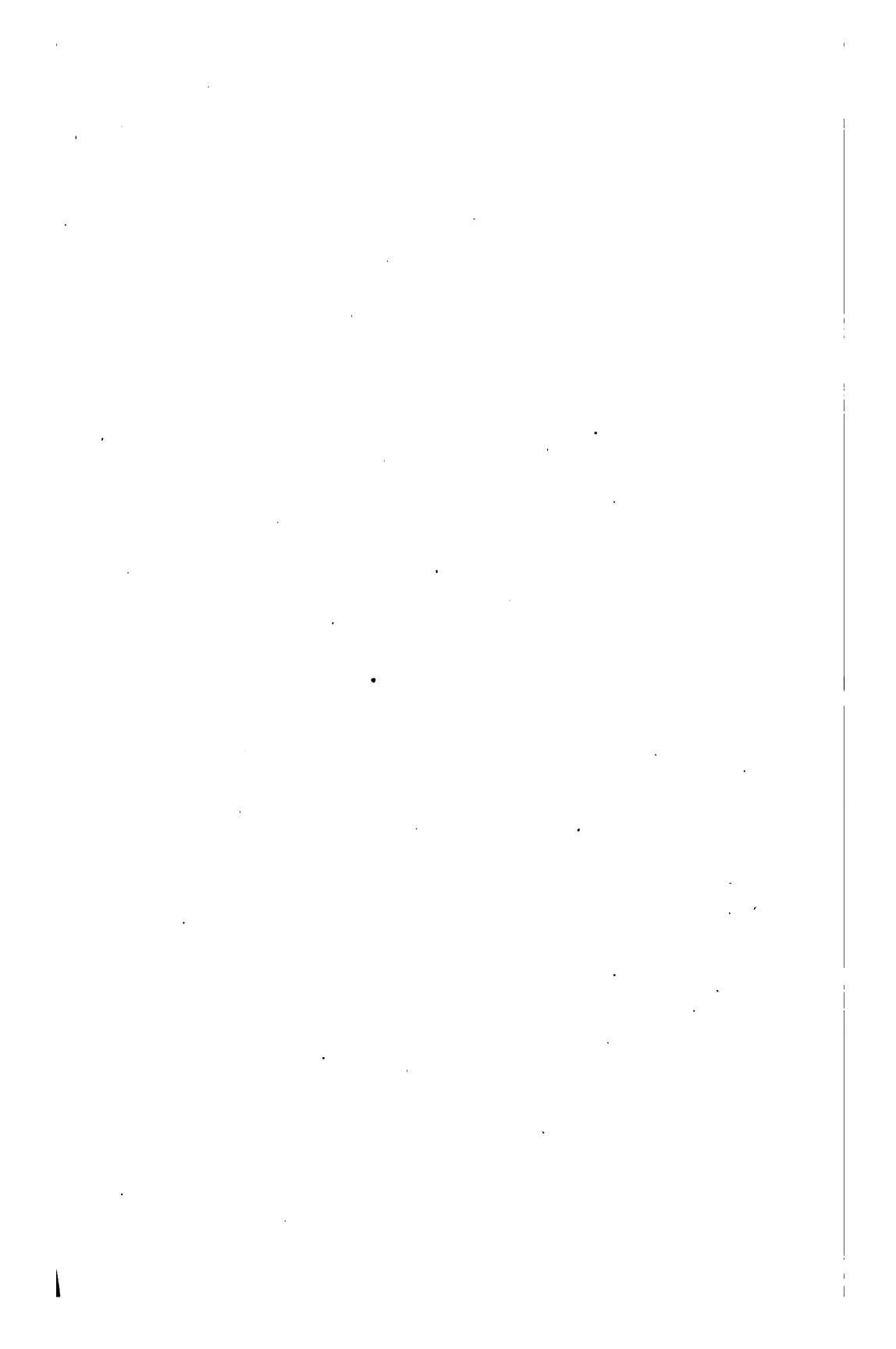


1

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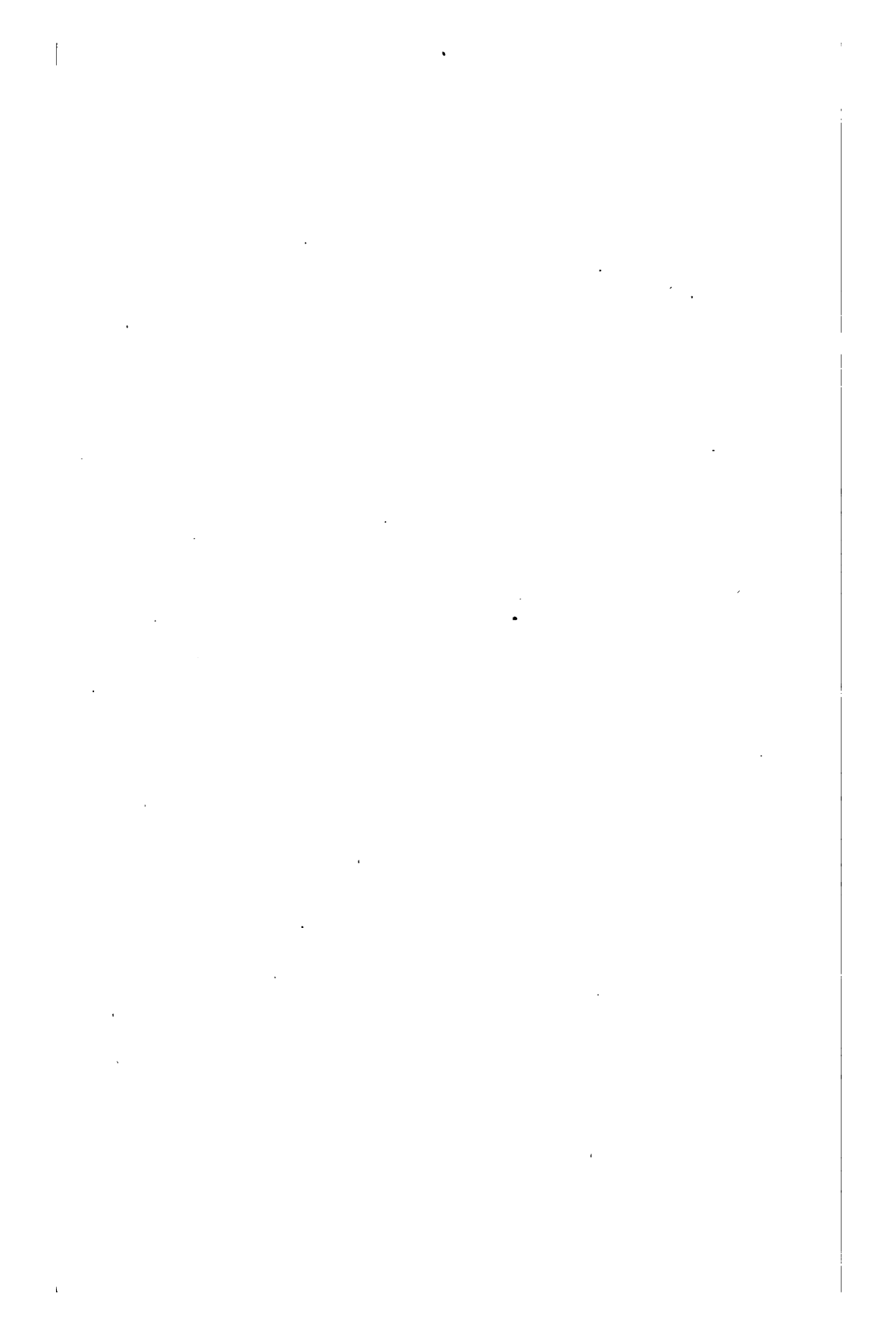
2



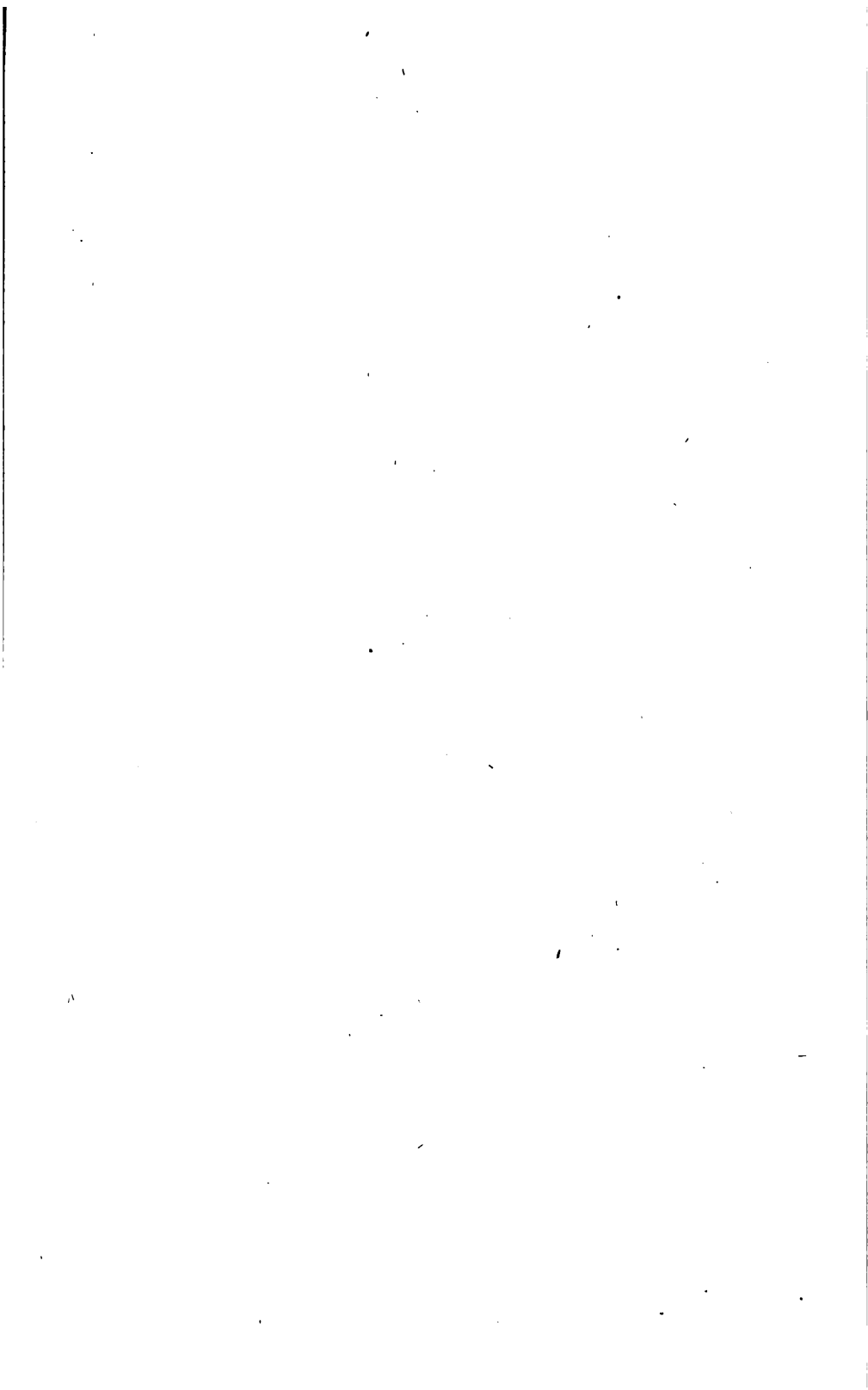
















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